Supreme Court, U.S.
FILED
06-662 NOV - 2 2006
OFFICE OF THE CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

David Muresan -- PETITIONAR

VS

U.S. Trustee & Michael Cole -- RESPONDENTS

ON PETITION FOR A WRIT OF

CERTIORARI TO

NINTH CIRCUIT COURT

PETITION FOR A WRIT OF CERTIORARI

(15 pages)

David Muresan

1496 S Crestview Dr. .Camano Island,

Washington, 98282

Ph # 360 - 387 – 0671

(a) QUESTIONS PRESENTED.

Question 1. **Has United States Ninth Circuit Court jurisdiction over a bankruptcy case, chapter 11, dismissed by the United States District Court for the Western District of Washington (Seattle)?**

Question 2. **May a small business, incapable to pay their debts, to file and to get bankruptcy chapter 11 protection, in order to have a plan to reorganize that business and to pay the debts?**

The home care small business named DMMD in Seattle Washington became in August 2005 insolvable and could not continue to pay the mortgages for the houses used for business. In October 2005 DMMD file, as small business, for bankruptcy chapter 11 protection in the United States District Court for the Western District of Washington (Seattle).The District Court Judge Karen Overstreet dismissed this case. DMMD appealed to Bankruptcy Appellate Panel of ninth circuit court but was denied. DMMD appealed BAP decision to Ninth Circuit Court and was dismissed for lack of jurisdiction.

Question 3. **. May a bankruptcy Court judge dismiss a chapter 11 case because the appellant is representing as Pro Se. ?**

The District Court Judge Karen Overstreet dismissed this case and she stated on the transcript of nov-18-05 hearings on page 20, line 10 *Quote*, ***" But I would tell you that I probably would dismiss his next pro se Chapter 11 just as fast as this one, probably faster. So it needs to be with counsel. Otherwise, it's not going to cut it. "*** *Unquote.."*

Question 4. **May a small business, hurt financially to the point of bankruptcy by some organizations, to sue those organizations in the bankruptcy court based on the Rule 7001 (1) (**a proceeding to recover money or property)?

(b) LIST OF PARTIES

[x] All parties appear in the caption of the case on the cover page.

Appellant. DMMD -Adult Family Home.

Pro Se, David Muresan: 1496 S Crestview Dr. Camano Island, Washington, 98282 Ph # 360 - 387 – 0571

Respondent. 1) U. S Trustee. 2) Michael Cole

Attorney for Michael Cole. John O. Linde P. O. Box 668, Friday Harbor, WA 98250

(c) TABLE OF CONTENTS.

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(d) REPORTS AND ORDERS ENTERED IN THIS CASE

1. United States Court of Appeals for the Ninth Circuit Order dismissing the DMMD, small business chapter 11 bankruptcy case appeal, for lack of jurisdiction. Entered on October 16, 2006

2. Unites States Bankruptcy Appellate Panel of the Ninth Circuit, Order to affirm the bankruptcy court dismissing the bankruptcy case and the adversary proceeding against Cole. Entered on July 07, 2006

3. United States District Court for the Western District of Washington Order dismissing Chapter 11 case. Entered November 29, 2005

4. United States District Court for the Western District of Washington Order of Dismissing (with prejudice) **of Adversary Case and Order imposing Sanctions.** Entered November 21, 2005

(e) JURUSDICTION IN THIS COURT

1. The chapter 11 case is provided by the bankruptcy code when a business cannot continue to make payments to creditors and when is a way to reorganized that business. The adversary cases are also provided by bankruptcy code to recover money from those hurting financially that business.

(e) (i) ORDER TO BE REVIEWD

1. United States Court of Appeals for the Ninth

Circuit Order dismissing the DMMD, small business chapter 11 bankruptcy case appeal, for lack of jurisdiction. Entered on October 16, 2006

(f) CONSTITUTIONAL PROVISIONS

The right provided by the U.S. constitution to a fare trial.

(g) STATEMENT OF THE CASE

DMMD small business enter into bankruptcy due to 4 adversaries. DMMD ask the U S Supreme Court to allow chapter 11 for business reorganization and payment of the creditors, and to allow all 4 adversary cases to go to a jury trial.

(h) ARGUMENT AMPLYFING THE REASON FOR THE WRIT.

The DMMD chapter 11 is to help that small business and the creditors.

(i) INDEX TO APPENDICS.

APPENDIX A-1 United States Court of Appeals for the Ninth Circuit Order dismissing the DMMD, small business chapter 11 bankruptcy case appeal, for lack of jurisdiction. Entered on October 16, 2006

APPENDIX A-2. Unites States Bankruptcy Appellate Panel of the Ninth Circuit, Order to affirm the bankruptcy court dismissing the bankruptcy case and the adversary proceeding against Cole. Entered on July 07, 2006

APPENDIX A-3. United States District Court for the Western District of Washington Order dismissing Chapter 11 case. Entered November 29, 2005

APPENDIX A-4. United States District Court for the Western District of Washington Order of Dismissing (with prejudice) **of Adversary Case and Order imposing Sanctions.** Entered November 21, 2005

APPENDIX A-1

Office of the Clerk

United States Court of Appeals for the Ninth Circuit

95 Seventh Street, Post Office Box 193939

San Francisco, California 94110-3939

Cathy A. Catterson
Clerk of the Court

(415) 556-9800

October 16,2006

BAP Clerk
Bankruptcy Appellate Panel
125 South Grand Avenue
Pasadena, CA 91105

No.	Title	Agency/D.C. No.
06-35487	Muresan v U.S. Trustee	WW-05-01484.PaNK
06-35489	Muresan v Cole	WW-05-01507-PaNK

Dear Clerk :

The following document in the above listed causes are being sent to you under cover of this letter.

- *Certified copy of the Decree of the Court*

The record on the appeal will follow under separate cov[illegible]lease acknowledge the receipt on the enclosed copy of this letter.

Very truly yours,
Cathy A. Catterson
Clerk of Court.

By Kwok K. Wang
Deputy Clerk

Enclosure(s)
cc: All Counsel

United States Court of Appeals for the Ninth Circuit

In re: David Muresan	) **No. 06-35487**
Debtor	) **BAP No.** WW-05-01484.PaNK
	)
	) **JUDGMENT**
David Muresan	)
Appellant	)
v.	)
United States Trustee	)
Appellee.	)
	)

In re: David Muresan	) **No. 06-35489**
Debtor	) **BAP No.** WW-05-01507.PaNK
	)
	) **JUDGMENT**
David Muresan	)
Appellant	)
v.	)
Michael Cole	)
Appellee.	)
	)

Appeal for the United States District Court for the Western District of Washington (Seattle).

On consideration whereof, it is now ordered and adjudged by this Court, that the appeals in this cause be, and hereby **DISMISSED for lack of jurisdiction.**

Filed and entered 09/22/06

APPENDIX A-2

Not for Publication

United States Bankruptcy Appellate Panel of the Ninth Circuit.

In re: David Muresan	)	BAP No. WW-05-01484.PaNK
Debtor	)	WW-05-01507.PaNK
	)	Bk. No. 05-24501
	)	Adv No. 05-01367
David Muresan	)	
Appellant	)	**MEMORANDUM**
v.	)	
Michael Cole ;	)	
United States Trustee	)	
Appellees.	)	

Argued and Submitted on June 23, 2006 at Seattle Washington. Filed – July 7, 2006

Appeal from United States bankruptcy Court for the Western District of Washington.

The Honorable Karen A. Overstreet, Chief Bankruptcy Judge, Presiding.

Before : Pappas, Nielsen, and Klein, Bankruptcy Judges.

.....

Conclusion.

WE AFFIRM the order of the bankruptcy court dismissing the bankruptcy case and the adversary proceeding against Cole. We REVERSE the award of $700 as sanction in favor of Cole and against Muresan.

APPENDIX A-3

Entered on Docket Nov. 29, 2005

Judge Karen A. Overstreet.

Chapter 11

Hearing Date: November 29, 2005

Hearing time 3:30 a.m.

Filed Western District of Washington
at Seattle.
Nov. 29, 2005
U.S. Bankruptcy Court.

United States District Court for the Western District of Washington

In re: David Muresan	)	No. **05-24501**
Debtor	)	**Order Dismissing**
_____	)	**Chapter 11 case**

THIS MATTER came before the Court upon the Court's own motion to convert or dismiss the chapter 11 case. Appearances were as set on the record.

The court has reviewed the record and files herein, all evidence submitted in support and opposition

to conversion or dismissal of the case, and oral argument of counsel and/or the debtor herein.

The Court hereby adopts and incorporate any and all findings of facts and conclusions of the law orally set forth on the record at the time of the hearing on the motion pursuant to FED. R. Civ. P. 52(a) and Fed. R. Bankr. P 7052(b), Having determined that this case should be dismissed for cause pursuant to 11 U.S.C, | 1112(b).

IT IS HEREBY ORDERED THAT:

1. This chapter 11 case is hereby **dismissed;** and

2. The Clerk of the Court shall forthwith provide notice of dismissal of this case to the debtor. All creditors, and other parties in interest.

DATED: November 29, 2005.

Signature
Karen A. Overstreet
United State Bankruptcy Judge.

Presented by; ILENE J. LASHINSKY
United State Trustee.

Martin L. Smith Attorney for the U S Trustee.
Office of the U S Trustee
700 Stewart St. Ste 5103
Seattle, WA 98101-1271
206-553-2000, 206- 553-2566(FAX)

APPENDIX A-4

Entered on Docket Nov. 21, 2005

Filed Western District of Washington
at Seattle.
Nov. 18, 2005
U.S. Bankruptcy Court.

United States District Court for the Western District of Washington

	)	Case No 05-24501-KAO
David Muresan	)	05-01367-KAO
Plaintiff,	)	
vs.	)	**Order of Dismissal of**
Michael Cole ;	)	**Adversary Case**
Defendant,.	)	**Order Imposing**
_____	)	**Sanctions**

JUDGMENT SUMMARY
(RCW 4.64.030)

Judgment Creditor:	Michael Cole
Judgment Debtor:	David Muresan
Principal Judgment amount:	
Interest to date of Judgment:	
Attorney fees:	$700
Costs:	
Other recovery Amount.	

Principal Judgment should bear interest at 12% per annum.
Attorney fees, costs and other recovery amounts shall bear interest at 12% per annum.

Attorney for Judgment creditor:	Mark Keiman.
Attorney for Judgment Debtor:	Jason Anderson.

THIS MATTER having come on for hearing on the 18th day of November, 2005, before the Honorable Karen Overstreet upon defendant's motion for an Order Dismissing the adversary Case and imposing Sanctions, defendant Michael Cole appearing by and through attorney Mark Keiman of the Law Office of John O. Linde and plaintiff David Muresan appearing by and through his attorney Jason Anderson, the Court having heard the arguments of counsel, having reviewed the files and pleadings herein, and otherwise being fully advised in the premises, NOW THERFORE

IT IS HEREBY ORDERED that the defendant's motion for an Order of Dismissal is hereby granted. The adversary Case is hereby **dismiss with prejudice**.

IT IS ORDER THAT plaintiff David Muresan shall pay sanctions in the amount of $700 to defendant Michael Cole pursuant to FRCP 11

ENTERED this 17th day of November, 2005.

Signature
Karen A. Overstreet
United State Bankruptcy Judge.

Presented by:
Law Office of John Linde.

Today Nov-4-2006

Appellant. David Muresan